

**LONDON BOROUGH OF HAMMERSMITH & FULHAM**

**Report to:** Council

**Date:** 13/07/2022

**Subject:** Adoption of the 2022 Revised Statement of Licensing Policy

**Report of:** Cabinet Member for Social Inclusion and Community Safety –  
Councillor Rebecca Harvey & Cabinet Member for Public Realm  
- Councillor Sharon Holder

**Report author:** Adrian Overton, Licensing Policy and Enforcement Manager

**Responsible Director:** Sharon Lea, Director of Environment

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**SUMMARY**

The Licensing Act 2003 (“The 2003 Act”) requires every Council to have a ‘Statement of Licensing Policy’ (“SLP”). The Council’s SLP must be reviewed via public consultation, formally adopted and published every five years. The current SLP was adopted in July 2017 and therefore any revised policy must be adopted by Full Council and published by July 2022, to meet this statutory requirement.

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**RECOMMENDATIONS**

1. That Full Council adopt the Statement of Licensing Policy (SLP 2022 - 2027) at Appendix 9.
2. That Full Council approve the retention of the Shepherds Bush Cumulative Impact Policy and have regard to the Cumulative Impact Assessment at Appendix 10.
3. That Full Council approve the retention of the Fulham Broadway Cumulative Impact Policy and have regard to the Cumulative Impact Assessment, at Appendix 10.

**Wards Affected:** All

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<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Building shared prosperity	The revised statement of licensing policy seeks to welcome and encourage responsible licensing operators to the borough and encourage late licences in non-residential areas. This could bring

Our Values	Summary of how this report aligns to the H&F Values
	new business investment, new employment opportunities and more visitors to enjoy their leisure time.
Creating a compassionate council	The revised statement of licensing policy supports a vibrant night-time economy that is sensitive to residents' needs.
Doing things with local residents, not to them	Residents have been consulted. The responses received from residents will be taken into consideration to help minimise any significant adverse impact on their enjoyment of their homes and local amenities.
Being ruthlessly financially efficient	The consultation has mainly been carried out electronically to minimise postal costs and the impact on the team budget.
Taking pride in H&F	The Licensing Authority's Statement of Licensing Policy and Cumulative Impact Policies (CIPs) help to consistently manage licensed premises and to uphold the four licensing objectives relating to public safety, crime and disorder, the safety of children and public nuisance.
Rising to the challenge of the climate and ecological emergency	The consultation has mainly been carried out electronically to minimise the use of paper, when compared to using a postal process.

## Financial Impact

There are no direct financial implications associated with the recommendations in this report. Any financial impact arising as a result of this policy e.g. public consultation, will be managed as part of the normal budget monitoring process.

Comments provided by Kellie Gooch, Head of finance (environment), 11 May 2022.  
*To be verified by Chris Harris, Andy Lord or Emily Hill*

## Legal Implications

Approval of the Statement of Licensing Policy and the revised Cumulative Impact Policies form the Licensing Authority Policy Statement and require the approval of

Full Council in accordance with Article 4 of the Council's Constitution. The Policy is due to be reviewed and endorsed by the 12 Members of the Licensing Committee on 27<sup>th</sup> June 2022 who consider matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003, other than the adoption of the Licensing Authority Policy Statement, which is a matter for Full Council.

A statutory consultation for the Cumulative Impact Assessments has been carried out under section 5A of the Licensing Act 2003, this was carried out at same time as the statutory consultation under Section 5 of the Licensing Act 2003 for the Statement of Licensing Policy. In revising the Statement of Licensing Policy the Council had regard to Section 6(D) of the Licensing Act 2003 which requires the Council to have regard to the Cumulative Impact Assessments which were published under Section 5A.

Section 5 of the Licensing Act 2003 requires a Licensing Authority to determine its Statement of Licensing Policy at least every five years this includes the requirement to carry out a statutory consultation. Prior to adoption of the Statement of Licensing Policy Members of Full Council must carefully consider the consultation responses at Appendices 4 & 7.

Section 5A of the Licensing Act 2003 Act places a duty on licensing authority to carry out a statutory consultation prior to adopting a Cumulative Impact Assessment. In accordance with the legislative requirements the Cumulative Impact Assessment for Shepherds Bush and Fulham Broadway has been summarised in the Statement of Licensing Policy.

Prior to adoption of the Shepherds Bush and Fulham Broadway Cumulative Impact Assessment Members of Full Council must carefully consider the consultation responses at Appendices 4 & 7.

*Comments provided by Jane Astbury, Chief Solicitor (Planning, Property, Licensing and Highways), 27 May 2022*

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## **Background Papers Used in Preparing This Report**

**NONE**

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## **DETAILED ANALYSIS**

### **Introduction and Background**

1. The Council's SLP provides advice and guidance to the Licensing Authority when exercising its functions under the Licensing Act 2003. It also provides guidance to licence applicants and any objectors.
2. A SLP may last for a maximum of five years and can be reviewed and revised by the Council at any time.

3. The SLP could be reviewed, for example, in two years' time, should the Council decide that specific areas of the borough would benefit from a more flexible or different approach to encourage regeneration and to engage local residents and businesses, as appropriate.
4. There is a clear intention that the SLP should be a balance of encouraging regeneration and nightlife business in the borough, whilst helping the Police and other responsible authorities to regulate problematic operators.
5. The revised policy has been updated to reflect the council's commitment to supporting businesses and a vibrant night-time economy that is sensitive to the needs of residents.
6. A copy of the draft amended Statement of Licensing Policy that was sent out for consultation, is attached at Appendix 1 and the current 2017 – 2022 Statement of Licensing Policy is attached at Appendix 2 to this report.
7. Full Council are asked to adopt the final Draft Statement of Licensing Policy (SLP 2022 - 2027) at Appendix 9.

## Proposals and Analysis of Options

### Reviewing the Statement of Licensing Policy

8. In reviewing, updating and revising the Council's Statement of Licensing Policy, Officers have sought the views of key stakeholders via our H&F Night-time Economy Working Group and Responsible Authorities about what they would like to see in the revised council's Statement of Licensing Policy.
9. Officers have engaged extensively with local residents, businesses and councillors before formal statutory consultation and reporting to Full Council.
10. The review process begun in July 2021 and has been somewhat impacted and delayed by the recent pandemic. The review involved the following:
  - a) **Cumulative Impact Policy review:** *An 8-week consultation about the Cumulative Impact Policies in Shepherds Bush and Fulham Broadway. The results of the public consultation can be seen at Appendix 3.*
  - b) **Night surgery with Amy Lamé's GLA team:** *Involved council officers from the Licensing Team, Economic Growth, Law Enforcement Team, business reps, the police and a local resident.*
  - c) **Two overnight audits:** *Conducted with Night-Time Economy Solutions and involved council officers from the Licensing Team, Law Enforcement Team, business reps, the police and a local resident.*
  - d) **Stakeholder engagement with the H&F Night-Time Economy Working Group:** *The group has representation from officers from council teams including: Licensing, Environmental Health, Community Safety, Highways, Economic Growth, Planning, Business Intelligence, Digital Services, Communications, the Police and Business Improvement Districts.*
  - e) **Conducted a Mayor's Office for Policing and Crime (MOPAC) Statement of Licensing Policy Audit:** *This looked at a wide range of*

strategic and policy areas and has been used to strengthen our policy. See Appendix 6.

### **A summary of the key changes to the Statement of Licensing Policy**

11. The revised SLP now has a different style, with three distinct sections and three new themes to make it more business friendly. Key changes to the Council's Statement of Licensing Policy are summarised at Appendix 8.

### **Timetable for formal adoption**

12. The timetable for formal adoption is detailed in the table below:

<b>Activity</b>	<b>Date(s)</b>
<b>Statutory public 6-week consultation BEGINS</b>	13 <sup>th</sup> May 2022
<b>Strategic Leadership Team (SLT) meeting</b>	25 <sup>th</sup> May 2022
<b>Political Cabinet</b>	6 <sup>th</sup> June 2022
<b>Statutory public 6-week consultation ENDS</b>	24 <sup>th</sup> June 2022
<b>Licensing Committee</b>	27 <sup>th</sup> June 2022
<b>Council</b>	13 <sup>th</sup> July 2022

### **Economic growth, regeneration and support for businesses**

13. The Council remains committed to be a major contributor to London's economic growth over the next decade and being the most inclusive, smartest economic hotspot. Providing infrastructure that supports the economy.
14. Policy 12 reinforces our 'Support for Local Businesses' and highlights our commitment to regeneration and economic growth. The draft revised SLP encourages businesses to seek our support and advice at an early stage.
15. The SLP is clearer about encouraging and supporting businesses that are unlikely to have an adverse effect on our residents, visitors and businesses.
16. By working in more collaborative way we can help to ensure that the economic benefits of the night-time economy *are not* outweighed by any negative impacts, the loss of amenity, antisocial behaviour (ASB) or crime/disorder.
17. The licensing regime can help to improve the public realm to make it a better place for people to shop, eat, drink, relax and enjoy local arts and facilities.
18. The revised SLP supports the revival of nightlife, with more late licences in non-residential areas to make H&F an even more attractive place to live and work.

19. It encourages well-managed late licences in non-residential areas, to promote a considerate night-time economy; and attract retailers and hospitality outlets that provide new artistic, cultural, retail and recreational opportunities.

### **Area Specific Cumulative Impact Policies**

20. As part of the review of the policy we have introduced a new policy section. Policy 4 relates specifically to cumulative impact. It states that: '*The Licensing Authority will have regard to cumulative impact generally and may make specific reference to any special area cumulative impact policies in place during the duration of this policy*'.
21. This makes it explicit that the Council, as the Licensing Authority has the freedom and the flexibility to introduce special area cumulative impact policies, at any time throughout the lifetime of the policy.
22. To ensure that residents are protected from the negative impact of late-night local licensing activities the Licensing Authority may decide to adopt a special area cumulative impact policy where the number, type and density of premises providing licensable activities is having a serious negative impact on the local community and local amenities.
23. These *special area cumulative impact* policies can be used in response to concerns raised by local residents, the Police and other key stakeholders.

### **Cumulative Impact Policies and approaches in other inner London boroughs**

24. Officers have looked at how the council's policy and approach to cumulative impact compares to other London Boroughs.
25. Islington, Tower Hamlets, Hackney and Camden already have Cumulative Impact Policies (CIPs) within their boroughs. Islington has a total of six CIPs covering the following areas: Clerkenwell, Bunshill, Kings Cross, Angel and Upper Street, Holloway and Finsbury Park and the Junction area of Archway. Tower Hamlets has two CIPs covering the Bethnal Green and the Brick Lane areas. Hackney has two CIPs covering the Dalston and Shoreditch areas. Camden has two CIPs covering the Seven Dials and Camden Town areas.

### **Evidence required to support Area Specific Cumulative Impact Policies**

26. The Licensing Authority needs to assure itself that there is robust and sufficient evidence to support and to justify a particular area having a special area cumulative impact policy in place. *This evidence would typically include data from the police, ambulance service, noise complaints, antisocial behaviour reports, etc.*
27. Applications for new premises licences, club premises certificates or any variations within the Fulham Town Centre Area that are likely to add to the existing cumulative impact will normally be refused where a relevant representation has been made, unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the Licensing Objectives. Accordingly, the presumption of refusal in this policy is not absolute

and the circumstances of each application will be considered where a relevant representation has been made

28. The evidence to support the Licensing Authority's decisions in respect of the two special area cumulative impact policies in Fulham Broadway and Shepherd's Bush expired on the 6 April 2021.
29. The evidence to renew the Council's two cumulative impact policies (CIPs) was due to be collected in the summer of 2020. The Covid-19 pandemic meant that evidence could not be collected as planned.
30. An 8-week consultation took place from 2 July 2021 – 27 August 2021 to establish the support for the current CIPs. In summary the majority of the responses were in favour of the expired CIP areas and the restriction they imposed on licensed premises, being retained. All of the comments from responses have been captured at Appendix 3.
31. Evidence gathering has taken place to see if the existing geographical areas covered by the policies are still relevant, or if they need to be extended, altered or removed.
32. The evidence gathered during the review process included: reports from the overnight audits, noise reports, police and community safety and licensing data.
33. In summary the consultation evidence showed that there was strong support for the retention of both the Shepherd's Bush and Fulham Broadway CIP areas. It is therefore proposed that both areas are retained.

#### **Other considerations**

34. The approach to alcohol and regulated entertainment licensing enforcement by council officers is to only target individual problematic premises that pose the highest risk. This approach is in line with the Regulators' Code and our enforcement policy.
35. The revised 2022 SLP reinforces our clear intent about working together to support and create a safe 24-hour business environment where people can work in more creative ways and benefit from a range of services, facilities, opportunities and amenities.
36. Our key consideration is to ensure that we continue to balance the often-conflicting needs of residents, businesses and visitors in a collaborative way.
37. In view of the above, two options have been proposed

**Option 1** - To adopt the draft, revised 2022 SLP, attached as Appendix 1.

**Option 2** – Do nothing and delay or extend the review. This option is not recommended as there is a legal requirement for the Statement of Licensing Policy to be reviewed and published at least every five years. Any delay will create a risk of challenge to the Council and therefore impact on the ability to make lawful licensing determinations.

## Reasons for Decision

38. The Council's adoption of the SLP is a legal requirement and will ensure that the council complies with the provisions of section 5 of the 2003 Act.

## Equality Implications

39. The Council, when taking decisions in relation to any of its functions, must comply with its public sector equality duty as set out in section 149 of the Equality Act 2010 ("the 2010 Act") to consider how the decisions they make, and the services they deliver, affect people who share any one of the nine protected characteristics as defined under section 149 (1) (7) of the 2010 Act in relation to age, race and disabilities etc. A screening for the equalities impact assessment has been carried out on the effect of the policy.
40. The policy has low relevance in relation to its impact on the areas under the statutory duties contained in the equalities impact assessment, but contributes towards the corporate priorities of the Council, in relation to having due regard to the three aims of the duty, namely:
- to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
  - to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
  - to foster good relations between people who share a protected characteristic and people who do not share it.

## Risk Management Implications

41. In line with the exercise of functions under the Licensing Act 2003, the proposed policy seeks to provide a balance between encouraging regeneration and nightlife business in the Borough, whilst helping the Police and other Responsible Authorities to regulate problematic operators. The revised policy seeks to reflect the council's commitment to supporting businesses and a vibrant night-time economy that is sensitive to the needs of residents.
42. The failure to meet new and existing statutory requirements is specifically addressed in the Environmental Health and Regulatory Services' risk register. Internal controls in place to mitigate this risk include forward planning, training, internal auditing and monitoring, periodic updates of the scheme of delegation and the business planning process.

*Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 24 April 2022*

## Climate and Ecological Emergency Implications

43. The changes to the current licensing policy are technical in nature and the overall change in style of the policy would have no significant foreseen climate



implications. The new sub policies with the proposed policy mainly relate to best practice and procedures (in terms of vulnerable adults or drink spiking for example) and would therefore have very limited effect. There are potential positive climate implications in relation to the retention of two separate cumulative impact policies in Shepherd's Bush and Fulham Broadway, as these policies would limit any new licensed premises in the area or restrict later opening hours for existing premises.

44. The business-friendly style of the policy may attract new operators to H&F, which could result in increased energy use if premises are newly brought into use or changed to a more energy intensive use (such as longer operating hours). The council's main levers to mitigate this are in planning policy, and enforcement of minimum energy efficiency standards, rather than licensing. However, cumulative impact policies should consider impacts on emissions and pollution, and licensing of new businesses should be used as an opportunity for engagement on energy efficiency and joining the council's Climate Alliance.

*Implications verified by Jim Cunningham, Climate Policy & Strategy Lead  
25 May 2022*

## Consultation

45. The Act states that, when reviewing its SLP, a Licensing Authority must consult:
- (a) the chief officer of police for the licensing authority's area,
  - (b) the fire and rescue authority for that area,
  - (c) each Local Health Board for an area any part of which is in the licensing authority's area,
  - (d) each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area,
  - (e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
  - (f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
  - (g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
  - (h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
46. In addition to the organisations listed above, copies of the draft were sent to:
- Ward councillors
  - Residents' Associations
  - Neighbouring authorities
  - Community Safety Team
  - All Responsible Authorities

Details of this consultation was also included on our Licensing pages on our website web site on this page:

<https://www.lbhf.gov.uk/business/licensing/licensing-policy>

47. On the 13<sup>th</sup> May 2022 officers commenced public consultation on the draft amended policy. The public consultation continued for a 5-week period until the 17 June 2022. Please see Appendix 5 - Consultation questions for the draft revised Statement of Licensing Policy 2022 – 2027.
48. A total of **37 online consultation responses** and **2 email responses** have been received, with in excess of 100 hits to the consultation webpage. There has been a good mix of responses from residents and businesses with a 51% / 41% split between both respectively. The remaining 8% comprised owners and employees of non-licensed premises and 'other'.
49. The responses from the 'Responsible Authorities', i.e. the Metropolitan Police, the Council's Environmental Health teams, support the proposals.
50. During the consultation period it was noted that the cumulative impact assessment (CIA) was not published with the online survey information. The CIA was subsequently added to the online survey on the 31<sup>st</sup> May 2022 and the consultation deadline was extended to the 24<sup>th</sup> June 2022.
51. The majority of the responses (over 60%) either strongly agreed or agreed that:
  - (a) H&F had a good balance between the regulation of licensed business and the needs of residents.
  - (b) H&F had a diverse, cultural entertainment offer for its residents and visitors.
  - (c) The three new themes were a good focus for the policy
  - (d) The new proposed policy is clear.
  - (e) There is enough advice to help with the process of applying for a new licence.
  - (f) Draft Policy 9 provided clarity on the enforcement options open to the council and in what circumstances different options might be used.
  - (g) Draft Policy 7 was clear about the timeframes and processes for applying for a Temporary Event Notice.
  - (h) The draft policy was clear how underage sales will be prevented and enforced if and when it occurred.
  - (i) There was sufficient information concerning vulnerable people working in and/or visiting licensed premises.
  - (j) The council should continue to keep a Cumulative Impact Policy in Fulham Broadway and in Shepherd's Bush, although a large number of respondents said that the Shepherd's Bush Cumulative Impact Policy should specifically relate to off licensed premises only.
52. A statistical breakdown of the responses received is included at Appendix 4. A table listing the relevant points raised in the responses received, can be found at Appendix 7.

## LIST OF APPENDICES

<b>Appendix 1</b>	Draft amended Statement of Licensing Policy <a href="#">Draft statement licensing policy 2022 to 2027</a>
<b>Appendix 2</b>	Current 2017 – 2022 Statement of Licensing Policy <a href="#">Current statement of licensing policy 2017 to 2022</a>

<b>Appendix 3</b>	Statistical consultation results for public 8-week consultation in 2021 about the Cumulative Impact Policies in Shepherds Bush and Fulham Broadway <a href="#">Responses from 2021 CIP consultation</a>
<b>Appendix 4</b>	Statistical consultation results received for the public 5 week statutory consultation on the proposed new statement of licensing policy <a href="#">Responses from 2022 SLP consultation</a>
<b>Appendix 5</b>	Consultation questions for the draft revised Statement of Licensing Policy 2022 – 2027 <a href="#">Consultation questions for 2022 - 2027 SOLP</a>
<b>Appendix 6</b>	MOPAC Audit - Annex 7 of the <a href="#">Draft statement licensing policy 2022 to 2027</a>
<b>Appendix 7</b>	Statement of Licensing Policy (SLP 2022 - 2027) - Record of responses and comments to public consultation <a href="#">Comments from 2022 SLP consultation</a>
<b>Appendix 8</b>	Key changes document - Statement of Licensing Policy 2022 – 2027 <a href="#">Key changes for 2022 - 2027 SOLP</a>
<b>Appendix 9</b>	FINAL Draft Statement of Licensing Policy (SLP 2022 - 2027) – incorporating consultation comments <a href="#">Final draft 2022 SLP including consultation comments</a>
<b>Appendix 10</b>	Cumulative Impact Assessment for Shepherd's Bush and Fulham Broadway <a href="#">CIA assessment for Shepherd's Bush and Fulham Broadway</a>